

TITLE 16. BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS

NOTICE IS HEREBY GIVEN that the **Board of Vocational Nursing and Psychiatric Technicians** (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the **Department of Consumer Affairs, Hearing Room, Room 100, 400 R Street, Sacramento, CA 95814 at 2:00 p.m., on Tuesday, December 30, 2003.**

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on Monday, December 29, 2003, or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by section 125.9, 148, 2854 and 4504 of the Business and Professions (B&P) Code, and to implement, interpret or make specific sections 2859, 2875, 2876, 2878, 2878.1, 2878.5, 2882, 4520, 4521, 4521.2, and 4531 of said Code, the Board is considering changes to Division 25 of Title 16 of the California Code of Regulations (CCR) as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Pursuant to B&P section 2854 (Vocational Nursing); and B&P Code section 4504 (Psychiatric Technicians), the Board may adopt, amend, or repeal such rules and regulations as may be reasonably necessary to enable it to carry out the provisions of these chapters.

1. Vocational Nursing Regulations

Mandatory Reporting – Amend Sections 2518.6, 2523, 2523.1, 2523.2, 2523.4, 2523.5, and 2523.6; and Adopt Sections 2520.4 and 2520.5.

New legislation set forth in Chapter 640, Statutes of 2003 (SB 358, Figueroa), establishes mandatory reporting requirements for licensed vocational nurses (LVNs) and their employers effective January 1, 2004. This proposal will implement and make specific those requirements.

Consumer Complaint Disclosure Policy – Adopt Section 2524.1.

Protection of the health, safety, and welfare of California consumers is the Board's highest priority. To ensure such protection, the Board is authorized to investigate complaints of unprofessional conduct and unsafe, incompetent practice by LVNs and psychiatric technicians (PTs).

Pursuant to the California Government Code (Public Records Act), the public has a distinct

right to access information in the government's possession. However, unconditional access is not authorized. Specific information pertaining to complaints alleging misconduct by licensees and relevant investigations are exempt from disclosure.

The proposed amendments would establish the Board's "*Consumer Complaint Disclosure Policy* (Rev. 02/21/03)" in regulations by reference.

School Program Requirements – Amend Sections 2526, 2529, 2532, 2533 and 2534.

The proposed amendments: (A) clarify the requirements for school programs to maintain alternate students in an enrollment status; (B) clarify the definition of additional faculty; (C) modifies the curriculum hours to permit 12 hour days for clinical experience; (D) replaces the term "non-nurse" with the term additional faculty; and (E) deletes the requirement that prior Board approval is needed to schedule more than 50% of clinical experience during evening hours.

2. Psychiatric Technician Regulations

Mandatory Reporting – Amend Sections 2576.6, 2579.2, 2579.3, 2579.4, 2579.6, 2579.7, and 2579.8; and Adopt Sections 2577.5 and 2577.6.

New legislation set forth in Chapter 640, Statutes of 2003 (SB 358, Figueroa), establishes mandatory reporting requirements for licensed PTs and their employers effective January 1, 2004. This proposal will implement and make specific those requirements.

Consumer Complaint Disclosure Policy – Adopt Section 2579.11.

Protection of the health, safety, and welfare of California consumers is the Board's highest priority. To ensure such protection, the Board is authorized to investigate complaints of unprofessional conduct and unsafe, incompetent practice by LVNs and PTs.

Pursuant to the California Government Code (Public Records Act), the public has a distinct right to access information in the government's possession. However, unconditional access is not authorized. Specific information pertaining to complaints alleging misconduct by licensees and relevant investigations are exempt from disclosure.

The proposed amendments would establish the Board's "*Consumer Complaint Disclosure Policy* (Rev. 02/21/03)" in regulations by reference.

School Program Requirements – Amend Sections 2581, 2584, 2586, 2587, 2588 and 2588.1.

The proposed amendments: (A) clarify the requirements for school programs to maintain alternate students in an enrollment status; (B) clarify the definition of additional faculty and teacher assistants; (C) modify the curriculum hours to permit 12 hour days for clinical experience; (D) replaces the term "other professional instructors" with the term additional faculty; (E) deletes the requirement that prior Board approval is needed to schedule more than 50% of clinical experience during evening hours; and (F) clarify that the preceptor is a

psychiatric technician not a licensed vocational nurse.
FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact:

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses:

The Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses. The proposed amendments do not alter staffing or equipment needs in any small business.

BUSINESS REPORTING REQUIREMENT

The Board finds that it is necessary for the health, safety, or welfare of the people of this state that this regulation which requires a report apply to businesses.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention, would either be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board at 2535 Capitol Oaks Drive, Suite 205, Sacramento, California 95833.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name:	Kim Frankland, Administrative Assistant
Address:	2535 Capitol Oaks Drive, Suite 205 Sacramento, CA 95833
Telephone No.:	(916) 263-7848
Fax No.:	(916) 263-7859
E-Mail Address:	Kim_Frankland@DCA.CA.GOV

The backup contact person is:

Name:	Suellen Clayworth, Nursing Education Consultant
Address:	2535 Capitol Oaks Drive, Suite 205 Sacramento, CA 95833
Telephone No.:	(916) 263-7841
Fax No.:	(916) 263-7859
E-Mail Address:	Suellen_Clayworth@DCA.CA.GOV

Website Access – Materials regarding this proposal can be found at www.bvnpt.ca.gov.

(11/4/2003)